

New law creates the crime of video voyeurism.

New law defines "video voyeurism" as (1) the use of any camera, videotape, photo-optical, photo-electric, or any other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the observing, viewing, photographing, filming, or videotaping and it is for a lewd or lascivious purpose; or (2) the transfer of an image obtained by activity described in new law by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

New law provides for the following penalties:

- (1) Except when (2) or (3) below applies, a first conviction of a fine of not more than \$2,000 or imprisonment for not more than two years or both. Provides that on a second or subsequent conviction, the offender shall be fined not more than \$2,000 and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.
- (2) When the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than \$10,000 and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.
- (3) When the observing, viewing, photographing, filming, or video-taping is of any child under the age of 17 with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than \$10,000 and be imprisoned at hard labor for not less than two years or more than 10 years without benefit of parole, probation, or suspension of sentence.

New law provides an exception to the crime for the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performance of related activities in providing telephone, cable television, Internet, or commercial online services.

New law further provides that unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on the motion of the prosecuting attorney shall order the destruction of all photographs, film, videotapes, or other images in any case in which the prosecuting attorney fails to timely prosecute within 90 days after expiration of the time for prosecution of the offense, or after the offender is released from incarceration for the conviction in which those images were used.

Effective August 15, 1999.

(Adds R.S. 14:283)